

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 782 Session of 2003

INTRODUCED BY RAYMOND, DONATUCCI, ALLEN, BARRAR, CASORIO, DERMODY, FABRIZIO, GEIST, HARRIS, HENNESSEY, HERMAN, HORSEY, LEDERER, MCGEEHAN, R. MILLER, O'NEILL, PAYNE, RUBLEY, SCRIMENTI, SOLOBAY, THOMAS, TIGUE, WASHINGTON, TURZAI, YOUNGBLOOD, CIVERA, REICHLEY, JAMES, MELIO AND SAYLOR, MARCH 10, 2003

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 28, 2003

AN ACT

1 Amending the act of April 12, 1951 (P.L.90, No.21), entitled, as
2 reenacted, "An act relating to alcoholic liquors, alcohol and
3 malt and brewed beverages; amending, revising, consolidating
4 and changing the laws relating thereto; regulating and
5 restricting the manufacture, purchase, sale, possession,
6 consumption, importation, transportation, furnishing, holding
7 in bond, holding in storage, traffic in and use of alcoholic
8 liquors, alcohol and malt and brewed beverages and the
9 persons engaged or employed therein; defining the powers and
10 duties of the Pennsylvania Liquor Control Board; providing
11 for the establishment and operation of State liquor stores,
12 for the payment of certain license fees to the respective
13 municipalities and townships, for the abatement of certain
14 nuisances and, in certain cases, for search and seizure
15 without warrant; prescribing penalties and forfeitures;
16 providing for local option, and repealing existing laws,"
17 ADDING DEFINITIONS OF "PROPER SUPERVISION" AND "SOCIAL <—
18 GATHERING"; AND further providing for enforcement, FOR SALES <—
19 BY PENNSYLVANIA LIQUOR STORES AND FOR PERMITTING UNDESIRABLE
20 PERSONS OR MINORS TO FREQUENT PREMISES.

21 The General Assembly of the Commonwealth of Pennsylvania
22 hereby enacts as follows:

23 ~~Section 1. Section 211 of the act of April 12, 1951 (P.L.90, <—~~
24 ~~No.21), known as the Liquor Code, reenacted and amended June 29,~~

1 ~~1987 (P.L.32, No.14), is amended by adding a subsection to read:~~

2 SECTION 1. SECTION 102 OF THE ACT OF APRIL 12, 1951 (P.L.90, ←
3 NO.21), KNOWN AS THE LIQUOR CODE, REENACTED AND AMENDED JUNE 29,
4 1987 (P.L.32, NO.14), IS AMENDED BY ADDING DEFINITIONS TO READ:

5 SECTION 102. DEFINITIONS.--THE FOLLOWING WORDS OR PHRASES,
6 UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE, SHALL HAVE THE
7 MEANINGS ASCRIBED TO THEM IN THIS SECTION:

8 * * *

9 "PROPER SUPERVISION" SHALL MEAN A PERSON TWENTY-FIVE YEARS OF
10 AGE OR OLDER, WHO IS DIRECTLY RESPONSIBLE FOR THE CARE AND
11 CONDUCT OF A MINOR OR MINORS WHILE ON THE LICENSED PREMISES, AND
12 WHO KEEPS THE MINOR OR MINORS WITHIN HIS OR HER SIGHT OR
13 HEARING. IF THE LICENSEE, AN EMPLOYEE OF A LICENSEE OR ANYONE
14 ELSE PAID BY THE LICENSEE IS PERFORMING AS PROPER SUPERVISOR
15 THEN THAT PERSON MAY NOT PERFORM ANY OTHER EMPLOYMENT-RELATED
16 DUTIES; OTHERWISE PROPER SUPERVISION SHALL CONSIST OF UNPAID
17 VOLUNTEERS.

18 * * *

19 "SOCIAL GATHERING" SHALL MEAN EVENTS MARKETED TO OR CATERING
20 TO MINORS IN WHOLE OR IN PART FOR WHICH PROPER NOTICE HAS BEEN
21 PROVIDED TO THE BUREAU OF ENFORCEMENT AND AT WHICH TIME NO
22 ALCOHOL IS SERVED AND ALL ALCOHOL IS REMOVED OR SECURED BY LOCK
23 AND KEY AT THE LICENSED PREMISES.

24 * * *

25 SECTION 2. SECTION 211 OF THE ACT IS AMENDED BY ADDING A
26 SUBSECTION TO READ:

27 Section 211. Enforcement.--* * *

28 (f) Funding for the enforcement bureau shall be provided by
29 the board. Each year, the Pennsylvania State Police shall
30 include with its application to the board for annual funding for

1 the enforcement bureau, the following:

2 (1) A complete audit of all expenditures of the enforcement
3 bureau for the period of one year prior to the request for
4 funds.

5 (2) A projected budget of expenses for the coming one-year
6 period.

7 (3) A review of the content of the enforcement bureau's
8 force of civilian officers, as it relates to its multiracial and
9 bilingual characteristics.

10 ~~Section 2. This act shall take effect in 60 days.~~ <—

11 SECTION 3. SECTION 305(A) AND (H) OF THE ACT, AMENDED <—
12 FEBRUARY 21, 2002 (P.L.103, NO.10) AND DECEMBER 9, 2002
13 (P.L.1653, NO.212), ARE AMENDED TO READ:

14 SECTION 305. SALES BY PENNSYLVANIA LIQUOR STORES.--(A)
15 [EVERY PENNSYLVANIA LIQUOR STORE SHALL KEEP IN STOCK FOR SALE
16 SUCH CLASSES, VARIETIES AND BRANDS OF LIQUOR AND ALCOHOL AS THE
17 BOARD SHALL PRESCRIBE. EVERY PENNSYLVANIA LIQUOR STORE SHALL BE
18 AUTHORIZED TO SELL COMBINATION PACKAGES. IF ANY PERSON SHALL
19 DESIRE TO PURCHASE ANY CLASS, VARIETY OR BRAND OF LIQUOR OR
20 ALCOHOL WHICH ANY SUCH STORE DOES NOT HAVE IN STOCK, IT SHALL BE
21 THE DUTY OF SUCH STORE IMMEDIATELY TO ORDER THE SAME UPON THE
22 PAYMENT OF A REASONABLE DEPOSIT BY THE PURCHASER IN SUCH
23 PROPORTION OF THE APPROXIMATE COST OF THE ORDER AS SHALL BE
24 PRESCRIBED BY THE REGULATIONS OF THE BOARD. NO PURCHASER MAY BE
25 REQUIRED TO PURCHASE MORE THAN TWO BOTTLES OR CONTAINERS OF THE
26 PRODUCT, PROVIDED THAT SUCH PRODUCT IS AVAILABLE THROUGH THE
27 STATE STORE SYSTEM.] THE BOARD SHALL IN ITS DISCRETION DETERMINE
28 WHERE AND WHAT CLASSES, VARIETIES AND BRANDS OF LIQUOR AND
29 ALCOHOL IT SHALL MAKE AVAILABLE TO THE PUBLIC AND WHERE SUCH
30 LIQUOR AND ALCOHOL WILL BE SOLD. IF A PERSON DESIRES TO PURCHASE

1 A CLASS, VARIETY OR BRAND OF LIQUOR OR ALCOHOL NOT CURRENTLY
2 AVAILABLE FROM THE BOARD, HE OR SHE MAY PLACE A SPECIAL ORDER
3 FOR SUCH ITEM SO LONG AS THE ORDER IS FOR TWO OR MORE BOTTLES.
4 THE BOARD MAY REQUIRE A REASONABLE DEPOSIT FROM THE PURCHASER AS
5 A CONDITION FOR ACCEPTING THE ORDER. THE CUSTOMER SHALL BE
6 NOTIFIED IMMEDIATELY UPON THE ARRIVAL OF THE GOODS.

7 IN COMPUTING THE RETAIL PRICE OF SUCH SPECIAL ORDERS FOR
8 LIQUOR OR ALCOHOL, THE BOARD SHALL NOT INCLUDE THE COST OF
9 FREIGHT OR SHIPPING BEFORE APPLYING THE MARK-UP AND TAXES BUT
10 SHALL ADD THE FREIGHT OR SHIPPING CHARGES TO THE PRICE AFTER THE
11 MARK-UP AND TAXES HAVE BEEN APPLIED.

12 UNLESS THE CUSTOMER PAYS FOR AND ACCEPTS DELIVERY OF ANY SUCH
13 SPECIAL ORDER WITHIN TEN DAYS AFTER NOTICE OF ARRIVAL, THE STORE
14 MAY PLACE IT IN STOCK FOR GENERAL SALE AND THE CUSTOMER'S
15 DEPOSIT SHALL BE FORFEITED.

16 * * *

17 (H) EVERY PENNSYLVANIA LIQUOR STORE SHALL SELL GIFT
18 CERTIFICATES WHICH MAY BE REDEEMED FOR LIQUOR. IN ADDITION, THE
19 BOARD MAY SELL CORKSCREWS, WINE ACCESSORIES, TRADE PUBLICATIONS
20 AND WINE SLEEVES AT PENNSYLVANIA LIQUOR STORES.

21 SECTION 4. SECTION 493(14) OF THE ACT, AMENDED DECEMBER 9,
22 2002 (P.L.1653, NO.212), IS AMENDED TO READ:

23 SECTION 493. UNLAWFUL ACTS RELATIVE TO LIQUOR, MALT AND
24 BREWED BEVERAGES AND LICENSEES.--THE TERM "LICENSEE," WHEN USED
25 IN THIS SECTION, SHALL MEAN THOSE PERSONS LICENSED UNDER THE
26 PROVISIONS OF ARTICLE IV, UNLESS THE CONTEXT CLEARLY INDICATES
27 OTHERWISE.

28 IT SHALL BE UNLAWFUL--

29 * * *

30 (14) PERMITTING UNDESIRABLE PERSONS OR MINORS TO FREQUENT

1 PREMISES. FOR ANY HOTEL, RESTAURANT OR CLUB LIQUOR LICENSEE, OR
2 ANY RETAIL DISPENSER, HIS SERVANTS, AGENTS OR EMPLOYES, TO
3 PERMIT PERSONS OF ILL REPUTE[,] OR PROSTITUTES [OR MINORS] TO
4 FREQUENT HIS LICENSED PREMISES OR ANY PREMISES OPERATED IN
5 CONNECTION THEREWITH_[, EXCEPT MINORS ACCOMPANIED BY PARENTS,
6 GUARDIANS, OR UNDER PROPER SUPERVISION OR EXCEPT MINORS WHO
7 FREQUENT ANY RESTAURANT OR RETAIL DISPENSING LICENSEE WHOSE
8 SALES OF FOOD AND NON-ALCOHOLIC BEVERAGES ARE EQUAL TO FIFTY PER
9 CENTUM OR MORE OF THE COMBINED GROSS SALES OF BOTH FOOD AND
10 ALCOHOLIC BEVERAGES ON THE CONDITION THAT ALCOHOLIC BEVERAGES
11 MAY NOT BE SERVED AT THE TABLE OR BOOTH AT WHICH THE SAID MINOR
12 IS SEATED AT THE TIME (UNLESS SAID MINOR IS UNDER PROPER
13 SUPERVISION AS HEREINAFTER DEFINED) AND ON THE FURTHER CONDITION
14 THAT ONLY TABLE SERVICE OF ALCOHOLIC BEVERAGES OR TAKE-OUT
15 SERVICE OF BEER SHALL BE PERMITTED IN THE ROOM WHEREIN THE MINOR
16 IS LOCATED: PROVIDED, HOWEVER, THAT IT SHALL NOT BE UNLAWFUL FOR
17 ANY HOTEL, RESTAURANT OR CLUB LIQUOR LICENSEE OR ANY RETAIL
18 DISPENSER TO PERMIT MINORS UNDER PROPER SUPERVISION UPON THE
19 LICENSED PREMISES OR ANY PREMISES OPERATED IN CONNECTION
20 THEREWITH FOR THE PURPOSE OF A SOCIAL GATHERING, EVEN IF SUCH
21 GATHERING IS EXCLUSIVELY FOR MINORS: AND PROVIDED FURTHER, THAT
22 NO LIQUOR SHALL BE SOLD, FURNISHED OR GIVEN TO SUCH MINORS NOR
23 SHALL THE LICENSEE KNOWINGLY PERMIT ANY LIQUOR OR MALT OR BREWED
24 BEVERAGES TO BE SOLD, FURNISHED OR GIVEN TO OR BE CONSUMED BY
25 ANY MINOR, AND THE AREA OF SUCH GATHERING SHALL BE SEGREGATED
26 FROM THE REMAINDER OF THE LICENSED PREMISES. IN THE EVENT THE
27 AREA OF SUCH GATHERING CANNOT BE SEGREGATED FROM THE REMAINDER
28 OF THE LICENSED PREMISES, ALL ALCOHOLIC BEVERAGES MUST BE EITHER
29 REMOVED FROM THE LICENSED PREMISES OR PLACED UNDER LOCK AND KEY
30 DURING THE TIME THE GATHERING IS TAKING PLACE. WRITTEN NOTICE,

1 AT LEAST FORTY-EIGHT (48) HOURS IN ADVANCE OF SUCH GATHERING,
2 SHALL BE GIVEN TO THE ENFORCEMENT BUREAU. ANY LICENSEE VIOLATING
3 THE PROVISIONS OF THIS CLAUSE SHALL BE SUBJECT TO THE PROVISIONS
4 OF SECTION 471. NOTHING IN THIS CLAUSE SHALL BE CONSTRUED TO
5 MAKE IT UNLAWFUL FOR MINORS TO FREQUENT PUBLIC VENUES OR
6 PERFORMING ARTS FACILITIES.

7 "PROPER SUPERVISION," AS USED IN THIS CLAUSE, MEANS THE
8 PRESENCE, ON THAT PORTION OF THE LICENSED PREMISES WHERE A MINOR
9 OR MINORS ARE PRESENT, OF ONE PERSON TWENTY-FIVE YEARS OF AGE OR
10 OLDER FOR EVERY FIVE MINORS OR PART THEREOF WHO IS DIRECTLY
11 RESPONSIBLE FOR THE CARE AND CONDUCT OF SUCH MINOR OR MINORS
12 WHILE ON THE LICENSED PREMISES AND IN SUCH PROXIMITY THAT THE
13 MINOR OR MINORS ARE CONSTANTLY WITHIN HIS SIGHT OR HEARING. THE
14 PRESENCE OF THE LICENSEE OR ANY EMPLOYE OR SECURITY OFFICER OF
15 THE LICENSEE SHALL NOT CONSTITUTE PROPER SUPERVISION.] MINORS
16 MAY ONLY FREQUENT LICENSED PREMISES IF; (A) THEY ARE
17 ACCOMPANIED BY A PARENT; (B) THEY ARE ACCOMPANIED BY A LEGAL
18 GUARDIAN; (C) THEY ARE UNDER PROPER SUPERVISION; (D) THEY ARE
19 ATTENDING A SOCIAL GATHERING; OR (E) THE HOTEL, RESTAURANT OR
20 RETAIL DISPENSER LICENSEE HAS GROSS SALES OF FOOD AND
21 NONALCOHOLIC BEVERAGES EQUAL TO FIFTY PER CENTUM OR MORE OF ITS
22 COMBINED GROSS SALE OF BOTH FOOD AND ALCOHOLIC BEVERAGES. IF A
23 MINOR IS FREQUENTING A HOTEL, RESTAURANT OR RETAIL DISPENSER
24 LICENSEE UNDER SUBSECTION (E), THEN THE MINOR MAY NOT SIT AT THE
25 BAR SECTION OF THE PREMISES, NOR MAY ANY ALCOHOLIC BEVERAGES BE
26 SERVED AT THE TABLE OR BOOTH AT WHICH THE SAID MINOR IS SEATED,
27 UNLESS SAID MINOR IS WITH A PARENT, LEGAL GUARDIAN OR UNDER
28 PROPER SUPERVISION. FURTHER, IF A HOTEL, RESTAURANT, CLUB LIQUOR
29 LICENSEE OR RETAIL DISPENSER IS HOSTING A SOCIAL GATHERING UNDER
30 SUBSECTION (D) THEN WRITTEN NOTICE AT LEAST FORTY-EIGHT HOURS IN

1 ADVANCE OF SUCH GATHERING SHALL BE GIVEN TO THE BUREAU OF
2 ENFORCEMENT. IF A MINOR IS FREQUENTING LICENSED PREMISES WITH
3 PROPER SUPERVISION UNDER SUBSECTION (C), EACH SUPERVISOR CAN
4 SUPERVISE UP TO TWENTY MINORS, EXCEPT FOR PREMISES LOCATED IN
5 CITIES OF THE FIRST CLASS, WHERE EACH SUPERVISOR CAN SUPERVISE
6 UP TO FIVE MINORS. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS
7 SECTION, IF THE MINORS ARE ON THE PREMISES AS PART OF A SCHOOL-
8 ENDORSED FUNCTION, THEN EACH SUPERVISOR CAN SUPERVISE FIFTY
9 MINORS. NOTHING IN THIS CLAUSE SHALL BE CONSTRUED TO MAKE IT
10 UNLAWFUL FOR MINORS TO FREQUENT PUBLIC VENUES OR PERFORMING ARTS
11 FACILITIES.

12 SECTION 5. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

13 (1) THE ADDITION OF SECTION 211(F) OF THE ACT SHALL TAKE
14 EFFECT IN 60 DAYS.

15 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT
16 IMMEDIATELY.